

S.B. CIVIL WRIT PETITION NO.3884/2005

Smt. Sumitra Devi vs. State of Rajasthan and others.

Date : 7.7.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. DD Thanvi, for the petitioner.

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Heard learned counsel for the petitioner.

The present writ petition is absolutely misconceived and has been filed in hot haste which is apparent from the notice Annex.8 given to the petitioner.

The notice was given to the petitioner only on 21.6.2005 directing the petitioner to show cause why her mining lease should not be cancelled because according to the mining department, when the land was surveyed, it was found that the land is falling within the forest area. Despite having some material before the mining authorities, the mining authorities gave an opportunity of hearing to the petitioner to follow the principles of natural justice and the petitioner within such a short period of 15 days submitted writ petition before this Court instead of getting decision from the mining department.

Learned counsel for the petitioner submits that the mining department will decide the matter against the petitioner and will cancel the lease of the petitioner.

After going through the facts of the case, I do not find any reason to appreciate such argument. When the Mining

Department has given some report and gave opportunity to rebut the report so that it may pass the proper order, it cannot be presumed that the evidence produced by the petitioner and the facts brought to the notice of the mining department will be ignored and the mining department will wrongly held the land to be forest land despite finding that in fact, the land is not forest land. So far as grant of mining lease to the petitioner on earlier occasion may not be available if it is found that the land is forest land as a matter of fact and earlier, the lease was granted wrongly to the petitioner. However, it is made clear that this Court has not decided and had no intention to decide whether the land in question is forest land or not. Therefore, the authority shall decide whether the land in question is forest land or not independently.

Accordingly, this writ petition, having no force, is hereby dismissed.

(PRAKASH TATIA), J.

S. Phophaliya